Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Morrow	Analyst:	Darrine Distefano	Bill Number:	SB 1462
Related Bills:	See Legislative History	Telephone:	845-6458	Introduced Date:	02-15-2002
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Military Retiree Surviving Spouse Benefits Credit

SUMMARY

This bill would allow a $50 tax credit to a military retiree's surviving spouse who receives federal military survivor benefits and meets certain criteria.

This analysis will not address the bill's legislative findings, as they do not impact the department's programs and operations or state income tax revenue.

PURPOSE OF THE BILL

The legislatively stated purpose of this bill is to provide financial relief for elderly, low-income widows and widowers of military retirees.

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy and would be effective immediately upon enactment. It specifies that it would apply to taxable years beginning on or after January 1, 2002, and before January 1, 2005.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Under current state and federal laws, a member of the armed forces of any country and the uniformed services of the United States may exclude from gross income amounts received as a pension, annuity, or similar allowance for personal injury or sickness resulting from active service.

Under federal and state laws, gross income of a nonresident from sources within this state does not include any retired or retainer pay, received on or after January 1, 1996, as a member or former member of a uniformed service.

Board Position:			Department Director	Date
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Under existing federal law, members of the uniformed services may elect to reduce their retired pay to provide an annuity to their survivors. Under federal and state tax laws, the reduction is excluded from gross income. Also, under federal and state law, annuities paid to survivors generally are included in the survivors' gross income for tax purposes.

THIS BILL

This bill would allow a $50 tax credit for a qualified surviving spouse of a military retiree who receives federal military survivor benefits.

This bill defines a “qualified surviving spouse” as a widow or widower of a military retiree who is 62 years of age at the end of the taxable year and has an adjusted gross income of $30,000 or less in the case of an individual or $60,000 or less in the case of a married person.

Any excess credit could be carried over until exhausted.

IMPLEMENTATION CONSIDERATIONS

This bill does not limit the number of years the credit may be carried over to future years. It is assumed that due to the limited dollar amount of this credit, the taxpayer will be able to apply the entire credit amount to their tax liability and may not have a carryover amount. However, without a limited carryover period, the department would be required to retain the credit carryover on the tax forms indefinitely.

TECHNICAL CONSIDERATIONS

The bill applies to an individual or a married person whose income does not exceed a specified amount. This type of limitation is usually imposed based on filing status, since married people may file separately. Department staff is available to assist with drafting amendments.

This bill requires a qualified surviving spouse to be an individual who has “attained” 62 years of age. “Attained” could be interpreted to mean that the credit applies to an individual who is not older than 62 years. The author may wish to replace the word “attained” with the term “at least” to clarify that an individual who is 62 years or older can take the credit.

LEGISLATIVE HISTORY

For taxable years beginning on or after January 1, 1973, Stats. 1972, Ch. 1359, added an annual $1,000 exclusion from gross income for pensions and retirement pay as well as for compensation for other than extended active duty. However, this exclusion was limited to taxpayers with adjusted gross income of $17,000 or less. AB 66 (Stats. 1985, Ch. 1461) increased the phase-out range to $27,000 for taxable years beginning on or after January 1, 1985. AB 4419 (Stats. 1986, Ch. 779) excluded from gross income up to $500 per month received for active duty service pursuant to a Governor-declared emergency. AB 53 (Stats. 1987, Ch. 1138) repealed each of these exclusions and established a tax credit, not to exceed $40 in any taxable year, based on various types of military income. Military income did not include amounts received for survivor benefits. The credit was repealed by its own terms effective January 1, 1992.

AB 1365 (Oller, 1999/2000) would have excluded from gross income any military retirement pay, military disability pay, or any other benefits received by a person retired from the armed forces. This bill failed passage in the Assembly Revenue and Taxation Committee. AB 2561 (Zettel, 1999/2000), and AB 1222 (Rod Pacheco 2001/2002) would have allowed a credit for taxpayers who received retirement pay as a result of active duty in the armed forces. AB 2561 died in Assembly Revenue and Taxation Committee while AB 1222 was amended to increase the dependent credit. SB 1725 (Haynes, 1999/2000) and AB 294 (Zettel and Kehoe, 2001/2002) would have both provided that gross income would not include benefits or payments received under the federal Retired Serviceman's Family Protection Plan, the Survivor Benefit Plan, and the Supplemental Survivor Benefit Plan. SB 1725 died in the Senate Revenue and Taxation Committee, while AB 294 died in the Assembly Revenue and Taxation Committee.

OTHER STATES' INFORMATION

Unlike California, *Massachusetts, Michigan, New Jersey, and New York* do not tax military pension income or survivorship benefits received from the U.S. uniformed services. These states do not offer any credit for military retirement pay.

Minnesota taxes all pensions and annuities received by a resident of the state regardless of the source. It does not offer any credit for military retirement pay.

These states were reviewed because of the similarities between California income tax laws and their tax laws.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

<u>Revenue Estimate</u>

This bill would result in revenue losses as shown in the following table:

Estimated Revenue Impact of **SB 1462** As Introduced February 15, 2002 Enactment Assumed After 6/30/02 (In $Millions)			
Fiscal Years	2002/03	2003/04	2004/05
Revenue Impact (Rounded)	**-$1**	**-$1**	**-$1**

Any possible changes in employment, personal income, or gross state product that might result from this proposal are not taken into account.

Revenue Discussion

The number of qualified taxpayers claiming this credit determines revenue losses.

According to data from the U.S. Department of Defense, there were nearly 30,000 California residents that received federal military survivors benefits (as of September 30, 2001) in the age group 65 or older. An additional 750 individuals were projected for the age group of 62-64 by extrapolating age data for California's population.

Based on departmental data for tax year 1999, there were over 8.5 million taxable returns filed for California residents, for whom over 15% filed jointly with adjusted gross income less than $60,000 and nearly 30% of these returns belonged to single or other filing status with adjusted gross income of less than $30,000.

Applying those percentages to federal military survivors residing in California, it is projected that nearly 14,000 qualified taxpayers would be eligible for this credit. The magnitude of annual revenue losses would approach $1 million for 2002 and thereafter.

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